IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 19822 of 2004

Between:

G.Satyanarayana S/o.Veeraiah
DCCB, Hanamkonda Branch Warangal District,
R/o.Warangal.

..... PETITIONER

AND

1 The District Cooperative Central Bank Limited rep. by its General Manager, Warangal.
2 The General Manager, Warangal District Cooperative Central Bank Limited, Hanamkonda, Warangal.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction particularly one in the nature of writ of mandamus declaring the action of the respondents in with holding the 50% of the gratuity and other retirement benefits such as leave salary including the arrears due to the petitioner from the respondents towards the with held increments pursuant to the orders of teh Arbitrator in ARC 15/99 dated 9.8.2001 and the orders of the second respondent dated 30-11-2001 as totally illegal and contrary to law laid down by the Hon'ble Supreme Court of India in 1999 3 SCC P.666 and consequently direct the respondents to release the entire retirement benefits due to the petitioner including arrears with interest @ 18% per annum and compensation for the illegal action of the respondents.

Counsel for the Petitioner:MR.S.LAKSHMA REDDY

Counsel for the Respondent Nos.1 & 2: MR.P.NAGESWAR SREE

The Court at the stage of admission, made the following :

ORDER

For withholding the 50% of the gratuity and other retirement benefits such as leave salary including the arrears due to the petitioner from the respondents pursuant to the orders of the Arbitrator in ARC NO.15 of 1999 dated 9.8.2001 and the orders of the 2nd respondent dated 30.11.2001, the present writ petition is filed.

The petitioner worked in the respondent-Bank and retired from service on 31.7.2004. The grievance of the petitioner is that after retirement, 50% of the gratuity and the other retirement benefits have not been paid to him.

The learned counsel appearing for the petitioner vehemently contended that withholding 50% of the gratuity and other retirement benefits is contrary to the service Rules governing the service conditions of the petitioner and therefore prays to allow the writ petition.

On the other hand, the learned counsel appearing for the respondent-Bank contended that since a charge memo has been issued for certain irregularities committed by the petitioner, the respondents have rightly withheld the amounts and there are no grounds to allow the writ petition.

It is not in dispute that the petitioner is entitled for 50% of the gratuity amount and also other retirement benefits. The remaining 50% of the gratuity amount was already been released to the petitioner. As per the service Rules governing the service conditions of the petitioner, there is no Rule for withholding of gratuity on the ground that disciplinary enquiry is pending. Therefore, the respondents are directed to pay the amount in the absence of any Rules governing the service conditions to the petitioner. So the ground on which the respondents withheld the amounts is not sustainable under law in view of the fact that there is no specific Rule for initiating departmental enquiry against the petitioner.

Therefore, the writ petition is allowed directing the respondents to release the benefit of 50% of gratuity amount and other retirement benefits to the petitioner, within a period of three months from the date of receipt of a copy of this order.

No order as to costs.

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28.12.2004

bsv

To

1. The District Cooperative Central Bank Limited rep. by its General Manager, Warangal.

2 The General Manager, Warangal District Cooperative Central Bank Limited, Hanamkonda, Warangal.

3. 2 CD copies